RENTAL PRESERVATION & PRODUCTION PROGRAM

Housing Levy Funds	TOTAL 2010-2016	YEARS 2010-2011
Amount	*$104,000,000*	*$29,574,167*
Goal	*1,670 units*	*475 units*

The Office of Housing's Rental Housing Program funds the development of affordable rental housing in Seattle using the Housing Levy Rental Preservation and Production Program funds and other fund sources. At least once per year, OH publishes a Notice of Funds Available (NOFA) for the Rental Housing Program. The NOFA describes specific funding priorities and requirements for each available fund source, of which the Housing Levy is the largest.

The following program objectives and policies apply to the Rental Housing Program as a whole unless otherwise indicated as specific to the Housing Levy Rental Preservation and Production Program. Additional Rental Housing Program policies are published in Seattle's Consolidated Plan for Housing & Community Development, including additional requirements for federal funds administered by the Office of Housing.

RENTAL HOUSING PROGRAM OBJECTIVES

The following objectives will guide the Rental Housing Program:

- Provide a mix of affordable rental housing, consistent with Levy affordability policies, promoting housing opportunity and choice throughout the City.
- Working collaboratively with other funders of affordable rental housing, ensure that the greatest number of quality affordable housing units are preserved or produced each funding rounds.
- Contribute to countywide efforts to end homelessness by providing housing that serves individuals and families who are homeless or at risk of homelessness.
- Promote cost-effective sustainable design, construction, rehabilitation, and operations of affordable housing.
- Promote preservation of affordable housing, and prevent displacement of low-income residents, through purchase and rehabilitation of existing housing.

- Contribute to the revitalization of low-income communities through development and preservation of affordable housing, including mixed-income housing and housing opportunities for existing low-income residents at risk of being displaced by redevelopment and rising housing costs.
- Contribute to the development of sustainable, walkable neighborhoods, particularly near high-capacity transit, giving low-income residents access to transportation, services and economic opportunity.

HOUSING LEVY FUND PRIORITIES FOR 2010-2011

Housing Levy funds are intended to serve vulnerable people in our community, including seniors and people with disabilities, families and individuals who are either experiencing homelessness or who are at risk of homelessness, and people who earn low-wages and have difficulty finding housing they can afford. In Seattle, 18% of all renter households – approximately 21,400 individuals and families – are severely cost burdened, paying more than half of their income for housing. Nearly all of these households have low-incomes; over 60% have incomes at or below 30% of median income.

Over the next two years, the current economic downturn will make it especially challenging to provide housing for these vulnerable groups. To meet Levy production goals, projects must leverage other public and private fund sources: capital funding for housing development and, for homeless and special needs housing, ongoing funding for building operations and supportive services. In the next two years capital funding leveraging is expected to be quite constrained. The State Housing Trust Fund is expected to have limited or no funding available in 2010, and equity pricing for low-income housing tax credits is significantly lower than it was just two years ago. Operating and service funding is limited due to reduced revenues from document recording fees and sales tax, and the expiring King County Veterans and Human Services Levy. At the same time, construction costs are significantly lower than they have been in recent years; sales prices of existing developments may continue to decline; and new federal resources may be available. The National Housing Trust Fund might provide federal capital funding for low-income housing for the first time in many years. Federal funding for the Choice Neighborhoods and Sustainable Communities will encourage local communities to connect housing investments with schools, transportation, and other investments to address broad community needs.

Over the next two years, the Rental Housing Program will emphasize housing development that optimizes leveraging of other public and private investment. Leverage includes capital funding for housing development, and operating and supportive services funding for residents with special needs. Geographic dispersion of very-low income housing throughout the city is encouraged. Mixed-income housing (projects serving households with incomes from 50% to 80% of median income) is encouraged in underdeveloped areas in the city where higher percentages of low-income residents or housing exist. In addition, OH will emphasize housing that addresses the following over-arching goals:

- <u>Contributes to City efforts to create sustainable transit-oriented communities</u>: create or preserve affordable housing opportunities in **areas with high capacity transit stations or high frequency transit service** where the City is making transportation, infrastructure and other investments and, if available, other housing subsidies for transit-oriented communities can be secured (see Program Definitions, page 45). Maps showing these areas will be available at the Office of Housing and will be published in NOFA documents.
- <u>Contributes to City and countywide efforts to end homelessness</u>: preservation or new construction of housing serving individuals and families who are homeless or at risk of homelessness.

The following are funding priorities for specific populations to be served in rental housing:

<u>Housing for homeless families, individuals and youth, including chronically homeless individuals with disabling conditions.</u>

Housing for the homeless continues to be a critical need in Seattle. Nearly 2,000 people are homeless on the streets in Seattle on any one night and many more in shelters and transitional housing; and Seattle Schools report about 900 homeless students over the school year. A range of housing, combined with supportive services, is needed to assist families, individuals and youth regain housing stability and work toward self-sufficiency. The Office of Housing works closely with other funders to maximize services and operating funding dedicated to housing for the homeless. Funding coordination is especially important for permanent supportive housing. A "Housing First" model has demonstrated success in Seattle and nationally. These programs provide housing and intensive services for people with disabilities who have long or repeated histories of homelessness, and for people who are high utilizers of public health and justice systems. Housing First also saves significant public costs such as for emergency services. Projects using this model will be prioritized so that those most in need are served and system-wide cost savings can be achieved. In addition, projects that use cost effective measures to create housing for homeless families, individuals and youth, including but not limited to single room occupancy units, and acquisition and moderate rehabilitation of existing housing, are encouraged.

Proposed projects serving homeless populations will be prioritized if they demonstrate a high likelihood of securing funds to provide appropriate levels of supportive services to help residents gain housing stability. Projects that will serve homeless families must be aligned with local planning and funding initiatives for ending family homelessness**.** Projects that will serve chronically homeless populations must demonstrate a high likelihood of securing funds to provide intensive services, including behavioral health, health care, and chemical dependency services; project sponsors will be required to participate in the emerging client care coordination system.

Housing for seniors and people with disabilities.

Many seniors and people with disabilities live on limited fixed incomes, and struggle to afford housing while paying for food, health care and other expenses. Seattle renters over age 62 are more likely to be severely cost burdened; over 27% of these households pay more than half their income for housing. People receiving social security disability typically have incomes as low as 17% of median income, so they cannot maintain stable housing without an affordable place to live.

Proposed projects serving these seniors and people with disabilities will be prioritized if they demonstrate high likelihood of obtaining appropriate levels of operating and services funding for the intended residents and/or preserve existing housing subsidies and prevent displacement of low-income residents.

Housing for low-wage working families and individuals.

Extremely low-income families and individuals—with incomes at or below 30% of median income—are the most likely to be severely cost burdened renters in Seattle. These households have incomes below $17,700 for an individual or $22,750 for a family of three. They may be working a minimum wage job, or working part-time or intermittently. They are at high risk for homelessness if a child's illness forces a parent to miss work or an unexpected expense results in a missed rent payment.

In addition, the people who provide everyday services to residents and visitors in Seattle often struggle to pay market rents. People working in food service, hotel housekeeping, retail sales typically earn $14 per hour. Office administrative staff, teacher's aides, and medical assistants may earn $17 per hour. Even in today's housing market, an income of $20 per hour is needed to afford the average one-bedroom apartment.

Proposed projects serving these populations will be prioritized if they are located near transportation and local services and amenities, giving low-wage workers the option to forgo a car. In particular, locations near high-capacity transit stations or high frequency transit service, and projects that preserve affordable housing in locations where rents are rising, will be prioritized. A mix of unit sizes to accommodate families is preferred in new construction projects.

PROGRAM POLICIES

I. Housing Levy Affordability Requirements

Affordability guidelines are applied Levy program-wide during the two-year term of the 2010-2011 A&F Plan, not on a project-by-project basis. All 2009 Levy Rental Preservation and Production Program funding awarded from January 1, 2010 through December 31, 2011 will be included in calculating the affordability policy performance. Housing Levy funds for the Rental Preservation and Production Program are subject to the following affordability policy:

- At least 60% of funds shall be used for housing serving households with incomes at or below 30% of median income;
- Up to 10% of funds may be used for housing serving households with incomes from 61% to 80% of median income; and
- The balance of funds shall be used for housing serving households with incomes from 30% to 60% of median income.

II. Eligible and Ineligible Activities and Costs

Rental Housing Program funds shall be used to fund the preservation and production of rental housing. Funds may be used to finance entire developments, individual units, or residential portions of a development.

A. Eligible costs

Eligible costs include, but are not limited to:

- Appraisals
- Architectural/engineering fees
- Capitalized Operating Reserves
- Capitalized Replacement Reserves
- Closing costs
- Construction
- Contingency
- Developer fees
- Environmental Assessment
- Inspections & Surveys
- Insurance
- Interest
- Option costs
- Permits
- Reimbursement of pre-development costs*
- Professional Fees
- Purchase price

- Financing fees
- Hazardous materials abatement
- Relocation
- Title insurance

*Nonprofit borrowers are encouraged to use Impact Capital or other cost-effective sources for pre-development funding.

B. Residential spaces

Rental Housing Program funds may be used to fund housing units, residential spaces, and common areas to the extent they serve the low-income housing and not other uses. Examples include:

- Areas for cooking, eating, bathing
- Building Lobby
- Areas for resident use such as television or reading rooms
- Corridors, stairwells, storage areas
- Management and service office space that is accessory to the housing
- Spaces used for on-site social services

C. Non-residential portions of mixed-income or mixed-use developments

Rental Housing Program funds can be used for projects that combine affordable rental housing with market-rate units and/or commercial spaces. However, costs associated with market-rate units or commercial spaces are not eligible for Rental Housing Program funding.

Borrowers must demonstrate that Rental Housing Program funding is attributable to eligible residential spaces and that costs of other parts of the project are paid by funds eligible for that purpose. Where it is impractical to segregate costs between Rental Housing Program-funded units and other portions of a mixed-use project, the OH Director may permit such costs to be pro-rated between Rental Housing Program funding and other funding sources based on a reasonable formula.

In order to facilitate development of the eligible residential spaces, OH may allow Rental Housing Program funds to be disbursed for the full amount of a shared cost item if:

1. Documentation is provided prior to expenditure of Rental Housing Program funds that assures sufficient funding from other sources will be provided prior to project completion equal to the full amount allocable to such space; and

2. The final cost certification confirms the allocation of appropriate non-Rental Housing Program funds for such spaces.

D. Leases

Site control through ownership of a property is preferred to site control through a long-term lease except in cases where the City is lessor, or the lessor and the lessee agree to accept the loan conditions described below and the City receives security in both leasehold and fee interests. Projects involving a borrower that is a lessee where the lessor and lessee do not both accept these terms and conditions will be permitted only if the project represents an unusual cost-effective opportunity or furthers other community development objectives. At a minimum, the following conditions will apply to properties where the borrower is the lessee and the owner does not agree to accept the normal loan term and conditions above:

1. Repayment: Loans involving leases must be structured to provide for repayment over the life of the lease. The OH Director may modify the normal repayment terms, as appropriate, by requiring different terms from or in addition to those generally specified by this Administrative and Financial Plan.
2. Lease term: Minimum lease term is 50 years with a preference for longer terms when feasible. The lease term must exceed the City loan term by at least six months.
3. Security: Security for the City loan should be appropriate to protect the City's interest in repayment of the loan.

E. Replacement housing obligations

Levy Rental Preservation and Production Program funds shall not be used to finance development of replacement housing developed as a condition to a tax exemption through the Multifamily Tax Exemption program or a Major Institution Master Plan boundary expansion. If the City receives funds from a Major Institution to satisfy the replacement housing requirements under SMC 23.34.124 .B.7, no permanent City funding shall be used in the development of these units. In addition, the Office of Housing shall use the funds received from a Major Institution to develop replacement housing consistent with any conditions included in the Major Institution Master Plan.

Financing Methods

The following are eligible methods of financing for Rental Housing Program funds.

A. Acquisition and bridge loans as described in Acquisition & Opportunity Loan program section and bridge loan policies in the Funding Plan section of this A&F Plan.

B. Long-term loans as described in Section VI, Loan Conditions.

C. Supplemental funding for projects previously funded by the City

The Office of Housing may provide financing to meet the capital needs of existing City-funded projects that meet at least two of the following criteria: a) the property has a critical capital need or code violation that cannot be addressed through the property's cash flow, reserves or other available resources, b) no other funding is available within the time frame required for the project, c) a public benefit will be realized as a result of the additional City funds, d) the Borrower will make a significant financial contribution. All such financing is dependent upon the borrower's ability to meet the goals and requirements of the NOFA and demonstrate a plan for capable management and fiscal operations of the property. Such funds may be provided as shorter-term loans or added to existing long-term OH loans, as OH may determine based on the circumstances of the project.

In cases where the City has determined a project eligible for supplemental funding, original loan terms and conditions may be changed to the terms and conditions applicable at the time of refinancing.

D. Use of Levy projects as security for other low-income projects

Borrowers may use Levy funded projects as security for financing other low-income housing projects if borrowers receive advance written approval from the OH Director. OH may give such approval if the borrower demonstrates that using a Levy-funded project as security for financing another project will achieve benefits for the City and not jeopardize the viability of the Levy-funded projects.

E. Conduit financing

To take advantage of opportunities to respond to requirements of particular projects, the Director may provide Levy funds to a project indirectly, for example by a loan to a borrower that then re-lends the funds to a project owner or lessee. Such financing may include, without limitation, acquisition of tax-exempt bonds from a conduit financing agency where the proceeds are used for an eligible project. In general, the project owner or lessee in such cases must agree to the City's regulatory terms and must provide a deed of trust for the benefit of the City or assigned to the City.

III. Project Requirements

A. Eligible Borrowers

Through the NOFA selection process, priority will be given to applicants that have demonstrated ability to develop, own, and/or manage affordable housing. Applicants that do not have previous experience in these areas will be expected to propose an appropriate relationship with an entity that does have this experience. OH will evaluate the experience of a borrower's development team, management team, Executive Director, staff, and Board of Directors to determine there is sufficient capacity to develop, own and operate housing on a long-term basis. Eligible borrowers are:

1. Nonprofit agencies: Eligible nonprofits must have a charitable purpose. The City's preference is to provide funding to nonprofit borrowers that have established housing as a primary mission. Private nonprofit agencies will be required to submit articles of incorporation and an IRS letter as proof of nonprofit status.
2. Any corporation, limited liability company, general partnership, joint venture, or limited partnership created by a nonprofit or public corporation in order to obtain tax credits.
3. Public Development Authorities.
4. Seattle Housing Authority (SHA), except that Levy Rental Preservation and Production funds for housing units developed as part of SHA HOPE VI (or successor program) redevelopments are not eligible unless the City Council approves such use through a Memorandum of Agreement or other agreement with SHA.
5. Private for-profit firms: Eligible for-profits must have experience developing, owning, and managing multifamily rental housing.

B. Cost-effective long-term investments

Proposals for quality affordable housing must demonstrate a cost effective, sustainable investment of public funding. Following are minimum requirements:

1. Land acquisition costs must be justified and represent a competitive market price.
2. Design must clearly promote efficient use of space and utilities.
3. Per-square foot and per-unit costs should reflect current market trends for the type of housing being produced.
4. Low per-square-foot land acquisition costs should not be sought at the expense of considerable site work challenges.
5. Fees for contractors and professional services must be competitive.
6. Unnecessary costs are avoided whenever possible.

C. Maximizing production and preservation

The City strives to leverage non-City resources for capital, operating, and supportive services to the greatest extent possible. OH works collaboratively with other funders of affordable housing including, but not limited to: the Washington State Housing Trust Fund, King County's Community and Human Services Division, the City's Human Services Department, the Washington State Housing Finance Commission, equity syndicators and Investors, and private lenders. The Office of Housing and its borrowers are expected to maximize these capital resources to ensure that the greatest number of quality affordable housing units are preserved or produced by the public funders each funding round, consistent with adopted priorities and affordability requirements for the Housing Levy and other housing fund sources. In order to produce the maximum number of extremely low-income housing units in the Levy Rental Production and Preservation Program, the City Council encourages the Director not to use Levy funds to replace housing for extremely low-income households that is to be demolished as part of a housing project, unless the Director determines the housing is nearing the end of its useful life and would be more cost effective to replace than to renovate, or replacement facilitates a net gain in the number of extremely low-income housing units.

D. Leveraging and maximum percentage of capital funds

For purposes of this section, "project" is defined as those housing units that are City funded and rent-regulated and the common areas to the extent they serve those housing units. In general, the City will provide a maximum of 40% of total development costs (TDC) of a project. Funds are awarded competitively, and the actual City percentage is generally 25%. Total development costs are all components of typical development budgets, including site acquisition, construction costs, and soft costs.

The City's maximum percentage includes all Rental Housing Program funds and other City capital funds including, but not limited to: Housing Levy, Community Development Block Grant, HOME, Residential Bonus Program, Commercial Bonus Program, any special mitigation funds, program income, Office of Economic Development (OED) equity funds, and OED Community Development Corporation and technical assistance funds used as capital for development or other long-term capital gap-financing subsidy. The City's maximum percentage of project financing also includes document recording fees awarded by King County. The maximum percentage does not include any funds used by the City to purchase transferable development rights (TDR). Bridge or Section 108 loans are not included in computing the percentage.

The OH Director may allow for up to a total of 50% of residential TDC to be paid by City funds for projects that meet one of the following criteria:

1. Projects that are located in an area with little or no subsidized housing or in an area identified in the City's Comprehensive Plan or other adopted policies as one in which subsidized housing should be encouraged.
2. Projects that provide special amenities and/or unique design features for the proposed tenant population such as large units for families; units requiring reconfiguration to meet the needs of the proposed population; or special design features resulting from the participation of potential tenants and/or community members in project development.
3. Projects where other public funders have made their maximum award and the project is a rental housing priority as described in this A&F Plan or the City's Consolidated Plan. The OH Director may ask borrowers to apply for other fund sources later, if appropriate.

E. Consolidated plan policies

Rental Housing Program projects must also comply with applicable requirements stated in the City's Consolidated Plan for Housing and Community Development regarding siting, community notification, fair contracting, Section 3 contracting and hiring for low-wage workers, National Environmental Policy Act, Women and Minority Business Enterprises, relocation, displacement, and real property acquisition, and affirmative marketing.

IV. Construction Requirements

The Office of Housing strives to ensure fair contracting methods and competitive pricing in the construction of affordable housing. Borrowers shall meet the following minimum construction requirements. Additional requirements and guidance can be found in the NOFA. OH reserves the right to review and approve all bid documents. Borrowers remain responsible for the compliance of all documents, plans and procedures with all applicable laws, regulations, codes, contracts and funding requirements.

A. Competitive selection of contractors

Borrowers must competitively select their contractors. Borrowers must propose a competitive process that clearly meets the City's requirements as published in each NOFA. The borrower shall submit a summary of their proposed competitive selection process. OH reserves the right to review and approve the process prior to implementation.

B. Contracting types & project delivery methods

Borrowers may propose to use a Cost Plus a Fee with a Guaranteed Maximum Price, a Stipulated Sum contract, or an alternative contract type to OH in their NOFA applications. OH reserves the right to review and approve contract type and construction delivery methods. The construction contract with the general contractor and any amendments to the contract shall also be submitted to OH prior to execution. The Office of Housing publishes specific contracting requirements in its NOFA.

C. Construction management

If applicants do not have sufficient in-house construction management capacity, they will be required to contract for this service. Applicants proposing to manage their own construction projects must demonstrate capacity to OH. Such applicants must have prior experience managing a construction project and have staff available to coordinate necessary work. In addition, the scope of work should appropriately match the agency's construction management experience and staff expertise.

D. Wages

State Residential Prevailing Wage Rates shall be the minimum rates applicable to all projects funded by the Rental Housing Program, unless a higher minimum rate applies or an exception is made as allowed in this paragraph. When federal funds trigger prevailing wages determined under the Davis-Bacon Act in a project, the higher of either the State Residential Prevailing Wage Rates (unless modified as stated below) or Davis-Bacon wage rates will apply to each job classification, unless applicable law requires otherwise. The OH Director may approve a change in these prevailing wage requirements if necessary to achieve compatibility with a state or federal funding source or to promote inclusion of Levy-funded units in mixed income and/or mixed-use buildings. The Office of Housing works closely with the Department of Executive Administration to monitor the payment of appropriate wages under a published set of procedures. In cases where Davis Bacon wages are triggered, Davis Bacon monitoring procedures are followed instead of OH monitoring procedures.

E. Apprenticeship programs

Borrowers are encouraged to require contractors to participate in State-approved apprenticeship programs.

F. Project labor agreements

Applicants who demonstrate to OH's satisfaction that use of a project labor agreement would be beneficial for project development may require a project labor agreement.

G. Washington State Evergreen Sustainability requirements

All OH-funded Rental Housing Program projects must follow the Washington State requirements for Evergreen Sustainable Development Standards. Details are available through the Washington State Department of Commerce.

V. Project Selection

A. Notice of Funds Available

At least once per year, the City will issue a Notice of Funds Available (NOFA) for the Rental Housing Program. The NOFA will provide application requirements, details on specific fund sources available, application forms, and deadlines. Minor deficiencies and clarifications may be corrected during the review process. Incomplete applications will be withdrawn from competition.

All applicants are required to attend a project pre-application conference with OH staff prior to submitting an application for funding.

B. Application components

The Office of Housing uses the Washington State Combined Funder Application for Affordable Housing. At minimum, applications must contain the following:

1. Project description: location, number of units, rent levels, need, and special characteristics.
2. Borrower capacity in the development, ownership, and management of affordable multifamily housing and capacity in serving the focus population.
3. Tenant profile: a description of proposed and existing tenants and their needs, household size, estimate and source of tenant income.
4. Evidence of site control: In addition to fee simple ownership, an option to purchase, an earnest money agreement, a lease (or option to lease) with a minimum term of 50 years, will constitute site control. OH will consider projects where the underlying ownership is through a real estate contract if the contract holder is willing to subordinate his/her interest to the OH loan or if there is adequate provision for the applicant to discharge the underlying contract and obtain fee title.
5. Appraisal: If the project involves acquisition, an appraised value based on the highest and best use at the time of site control will be used to assess whether or not a fair price

is paid for land, including any structures. Project applicants should make acquisition offers subject to verification by appraisals acceptable to the City.

6. Construction description: Proposed contractor selection plan; scope of work; outline specifications; cost estimates; contract type and project delivery method; Evergreen standards; reports and evidence of early design guidance from the City's Department of Planning and Development;
7. Project schedule
8. Zoning: Zoning must be appropriate for the proposed project at the time of application.
9. Phase I site assessment including asbestos/lead paint/hazardous materials survey—a survey to identify the presence and amount of asbestos/lead paint and/or any other hazardous materials or underground tanks within the building or elsewhere on site and a description of proposed abatement measures. A Phase II assessment will be required if recommended in the Phase I.
10. Development budget and proposed sources
11. Relocation Plan, if applicable
12. Operating Pro Forma, including 15 year operating Pro Forma with proposed rents and required rental assistance or operating subsidy; taxes, insurance, utilities, salaries, management fees, replacement and operating reserves, maintenance supplies and services.
13. Support services: budget and support services plan, if applicable.
14. Community notification—description of results of community notification process and any results at time of application and plans for additional notification activities. Proposal must describe how community issues or concerns raised will be addressed.

C. Proposal review

Funding applications are reviewed and evaluated in detail by OH staff based on the requirements listed in this section and additional criteria published in the NOFA. OH staff works closely with the other public funders that have been requested to fund each project. The public funders collaborate on proposal evaluations and financing strategies that meet the requirements of each fund source while maximizing the number of affordable housing units that can be produced and/or preserved each funding round.

When all projects have been evaluated, staff makes funding recommendations to a Credit Committee composed of persons appointed by the OH Director to serve as advisors from the private and public sectors and members of the Mayor's Office and City Council who have expertise in affordable housing financing and/or public policy. The OH Director, whose decisions on funding shall be final, makes funding awards based on the Director's judgment as to the merits of the proposed projects; their strengths in meeting the goals and requirements of the NOFA and this A&F Plan; the overall mix of projects funded by the City; and the leveraging of public resources to preserve or produce the highest number of quality affordable housing units each funding round. Results are reported to the Housing Levy Oversight Committee and made public.

D. Fund reservation

The OH Director authorizes fund reservations for each selected project that provide information about fund source requirements; funding levels; and conditions that must be met prior to closing. Fund reservations are not binding on the City until contract documents are negotiated and signed by both the Director and the owner.

After fund reservations are announced, the Director may reduce or revoke funding to any project based on failure to meet funding conditions; decrease in costs from the preliminary cost estimate submitted in the application; failure of the applicant to obtain other funding; noncompliance by the applicant with City policies; determination of inaccuracies in the information submitted; increased costs or other factors affecting feasibility; results of environmental or other reviews; or failure to the applicant to agree to loan conditions. If a project continues to be eligible for OH funding throughout the development process, OH will take into account, in considering any reduction in a funding award, whether it would eliminate the project's ability to utilize another critical funding source. The Director also may increase funds to a project after initial funding decisions are made if reasonably necessary to assure success of the project or maximum public benefit, based on new information not available at the time of the initial decision.

VI. Loan Conditions

Loan conditions are meant to promote and encourage long-term use of properties for low-income housing. The OH Director may deviate from the loan terms and conditions contained in this Plan in the following cases:

1. For tax credit entities, where such loan terms may impair the availability of tax benefits; or

2. When the borrower expects to receive other funding sources from which full or partial repayment of the City loan can be made prior to the normal maturity date.
3. To enable a project to secure other financing, including HUD-insured loans and HUD capital grants.

A. Loan terms

Permanent loan terms will be a minimum of 50 years. OH may provide an acquisition or construction loan for a much shorter term that is eligible for conversion to a permanent loan upon satisfaction of conditions.

B. Interest rate

The interest rate for projects not using low-income housing tax credits will generally be 1% for nonprofit-sponsored projects and 3% for private for-profit-sponsored projects. The interest rate for projects using low-income housing tax credits will be a minimum of 1% simple interest and a maximum of the Applicable Federal Rate for the purposes of Section 42 of the Internal Revenue Code, depending on the project's projected capacity for repayment. The actual interest rate for projects using low-income housing tax credits will generally range from 1-3% and will be set on a case-by-case basis. The interest rate will exceed 1% where there is a net financial benefit to the project. The purpose of establishing a range for the interest rate on Rental Housing Program funds is to provide flexibility in financial structuring to maximize tax credit equity contributions and to help preserve long-term affordability. Interest on program loans will accrue annually as simple interest.

C. Repayment

OH will generally make deferred payment loans that are payable in full on sale, on change of use, or at the end of the loan term. Terms generally will permit borrowers to further defer payment of principal, deferred interest, and contingent interest by extending the loan term. Amortizing loans will be required if project budgets can afford repayment and meet required rent levels. Terms of repayment required will be established as each project is reviewed. OH will develop policies to address replacement reserve levels in buildings that have been funded with Levy Rental Preservation & Production Program funds.

D. Transfer and assumption

The OH Director may permit the transfer and assumption of the loan, and the transfer of the property acquired, constructed or rehabilitated with the proceeds of the loan, without requiring repayment of principal, interest or other amounts owing under the loan at the time of the transfer, under any of the following circumstances:

- The loan is assumed by a tax credit entity and the entity makes a substantial equity investment in the low-income housing;
- The property is transferred by a tax credit entity to a nonprofit corporation or public agency approved by the Director, including without limitation a transfer to the general partner or manager pursuant to the terms of an option agreement made in connection with the formation of the tax credit entity; or
- The property is transferred, with the approval of the Director, to a qualified nonprofit corporation or public agency, without substantial consideration to the transferor other than assumption by the transferee of outstanding obligations.

Prospective new owners must complete a transfer of ownership application and meet the guidelines established for transfer of ownership.

E. Refinancing of private debt

OH may allow refinancing of private debt in cases that result in additional capital investment in the project; that result in a lower interest rate and reduced debt service; or that produce some other long-term project benefit. OH shall review the proposed new financing terms; proposed transaction costs; a capital needs assessment; and the adequacy of reserve accounts. OH may define additional submittal requirements.

F. Covenant

A covenant will be recorded against the property that requires continued use of the property for low-income housing for the stated term of the loan, and for any period for which the loan is extended. Unless otherwise agreed by the Director, the covenant shall continue in effect if the loan is repaid or discharged before the maturity. The Director may release the covenant, wholly or in part, in connection with a sale of the property approved by the Director, including any foreclosure, if the Director determines that under all the circumstances, including any proposed substitution of other units, the release will likely result in a net benefit to the City's efforts to achieve low-income housing goals, compared to maintaining the covenant.

G. Supportive housing

Loan terms may include requirements specific to dedicating units for people who have been homeless or who have special needs. Borrowers whose projects have units restricted to persons with particular special needs may propose to change the special needs or target population group being served in a project sometime during the loan term. If an event occurs requiring a change in population group served, borrowers with special needs projects will first be required to serve another special needs population. If OH determines that it is not feasible or appropriate, OH may allow for a population of a specific income to be served.

H. Contingent interest

City participation in project equity (contingent interest) shall be required for all Rental Preservation & Production Program projects in the event of change of use or sale of property before the loan maturity date. Upon sale, change of use, acceleration or prepayment of the loan, loan principal plus the greater of either deferred interest or contingent interest shall be due. Contingent interest shall be calculated according to a formula established by OH.

The City's contingent interest should reflect the amount of City funds contributed as permanent financing to a project and should be modified by any additional funds contributed during the loan term, such as capital contributions approved by the City or borrower subsidy necessary to cover operating losses. For example, if the loan is paid or becomes payable before the maturity date, if City funds are 50% of total project costs, the City should receive, in addition to repayment of its principal, 50% of proceeds remaining after repayment of approved project debt (but not including contingent interest owing to other project lenders).

I. Prepayment premium

Prepayment of loans under the Rental Preservation & Production Program will be subject to Office of Housing approval. Such approval shall not be unreasonably withheld if the borrower provides adequate assurances of future compliance with the affordability and occupancy restrictions in the regulatory agreement and recorded covenant. If a borrower repays the City loan (principal plus the greater of interest or contingent interest) during the first 15 years of the loan term, a prepayment premium shall also be due.

The prepayment premium shall be 50% of the original loan principal if the loan is repaid during the first five years of the loan term. The prepayment will decline by 5% per year in years 6 through 15. There will be no prepayment premium after 15 years.

Prepayment premiums shall not be due in the event of involuntary prepayment, due to casualty where there are insufficient insurance proceeds or other sources reasonably available to complete the repairs or condemnation.

J. Loan term extension

Any unpaid principal balance and accrued, but unpaid interest on OH loans will be due and payable at the end of the 50 year loan term. Loan documents may provide borrowers with an option of extension, or, in certain circumstances described below, satisfaction of some or all of the amounts owing through extended provision of affordable housing. At the end of the loan term, borrowers will be encouraged to extend the loan term and continue to extend the period of affordability restrictions for an additional 25 years, provided the property continues to be in compliance with the OH requirements.

K. Debt satisfaction through extended affordability

As an inducement to serve extremely low-income households, the OH Director may agree to terms in loan documents, for projects in which 50% or more of the units serve these households, by which, if the loan term is extended for 25 years and the borrower and the property remain in compliance with OH loan documents, the debt will be deemed satisfied at the end of that extension period or ratably over the extension period.

For any other projects, principal debt and ordinary interest are not forgivable, but if the period of affordability restrictions is extended after the initial 50-year term for an additional 25 years, during which period the loan terms may require payments on the outstanding debt from a portion of net cash flow as determined by a formula approved by the OH Director, then the terms may provide that contingent interest will be deemed satisfied at the end of that extension period or the contingent interest percentage reduced ratably over the extension period.

L. Use of funds owing to the City

Sale of projects during the loan term requires City consent. Loan payments to the City will be deposited in the Low-Income Housing Fund. Payments will be reallocated by OH to low-income housing projects according to priorities established in the current Administrative and Financial Plan or appropriate City policy plans as determined by OH.

M. Non-recourse

Loans shall generally be made on a non-recourse basis, with the City's remedy limited to its security in the project, project rents, and project reserves, except in cases of fraud, waste, or other circumstances determined by the OH Director to justify recourse against the borrower. OH may require recourse to the borrower or a guarantor for a specific amount of time or until certain conditions are satisfied when the City's security in the property may be inadequate.

VII. Management and Operations

Good management is critical to the overall success of projects. Project borrowers will be required to submit a management plan to OH for approval.

A. Management plan

Management plans should include the following:

1. Occupancy standard (# of persons per unit) that is consistent with Federal, State or City Fair Housing standards.
2. Rent standard (household income and rents) that complies with contract restrictions.
3. A management philosophy that is appropriate for the target population.
4. Affirmative Marketing Plan that complies with Federal, State and City laws and demonstrates outreach to all segments of the community and protected classes. Borrowers serving homeless and diverse populations must demonstrate cultural competency.
5. Roles and Responsibilities of key staff and contracted management.
6. Maintenance Plan including a schedule of routine and preventative maintenance; a schedule of inspections; and the long term maintenance plan.
7. A Capital Needs Assessment (CNA) that includes a 20 year schedule of major replacements with a corresponding schedule of replacement reserve account deposits.
8. Budget: Annual projection of income, expenses, capital improvements, and reserve accounts.
9. Operating Policies and Procedures for the following management functions, at a minimum:
   a. Leasing: referrals, screening criteria, selection, income qualification, and a copy of the lease or program agreement.
   b. Rent: Rent collection, deposits, late payments, addressing damage to units, rent increases
   c. Commitment to the City's Just Cause Eviction Ordinance.
   d. Management of tenant files and records
   e. Work order and Repair process
   f. Unit turnaround: filling vacancies
   g. Building security and emergency plan
   h. Community education and involvement plan for addressing complaints or issues raised by tenants and neighbors about the building or tenants.
10. Management plans for special needs housing and housing with support services should also include the following:

a. Description of service support program to be provided to tenant households including funding commitments and contracts.
b. Identification of key staff roles and responsible related to service delivery including written agreements that describe relationships with other agencies.
c. Involvement of tenants in project governance and house rules.
d. Description of performance or outcome measures.

B. Tenant income and rent requirements

Housing units funded by the Rental Housing Program are restricted to tenants whose income does not exceed 80% of median income. In many cases, housing units are restricted to 30%, 50%, or 60% of median income. Tenants must be income qualified prior to move in to be determined eligible.

Where an existing, occupied project is acquired or rehabilitated with Rental Housing Program funds, OH may waive the unit affordability restrictions for existing over-income tenants for up to two years of the date of the agreement between OH and the borrower. However, OH may require as a funding condition that units occupied by such tenants will be rent-regulated under a City Regulatory Agreement when occupancy changes. In such cases, the initial regulatory term would be established for a fifty-two year period. After the end of the initial two-year period, over-income tenants must be relocated.

Tenants who are income-eligible at the time of their initial occupancy or the time of City funding, whichever is later, are not generally required to be relocated when their incomes exceed the restrictions of their unit. Over-income tenants whose incomes surpass 140% of the maximum income limit for their unit must at minimum pay the maximum rent for that unit. Tenants whose incomes surpass 65% AMI may be required to pay 30% of income towards rent at the following year’s income certification subject to increases are subject to other funder restrictions, and state and local law.

C. Rent increases

Borrowers should not raise rents for existing tenants immediately after rehabilitation or acquisition to avoid displacement of low-income tenants. Higher post-rehabilitation or post-acquisition rents will be considered only if necessary to ensure adequate project operating funds.

Rents for newly acquired or renovated vacant units and rents for newly constructed units that are part of an existing development should generally not exceed an average of the rents for comparable occupied units within the development where applicable.

Modest rent increases are permitted as operating costs increase to avoid undue financial hardship on borrowers so long as sudden, sizeable rent increases that could displace residents are avoided. During the loan term, borrowers may raise rents for occupied units up to 1.5% per annum or up to the percent increase in the Housing Component of the Consumer Price Index (CPI) for Rent of Primary Residences for the Seattle area, whichever is greater, provided that the adjusted rent does not exceed the maximum Affordable Rent for the target income category specified in the project regulatory agreement. OH may provide an allowance for a borrower to raise rents higher than this for projects that have experienced extraordinary expenses so long as the higher rent remains consistent with the applicable affordability restrictions.

Upon unit turnover, rents may be adjusted to the maximum allowable rent based on number of bedrooms and affordability level.

D. Floating units

OH may approve a "floating unit" regime that allows affordability levels in specific units to change so long as the total number of units at each affordability level in the development is maintained.

E. Special populations

Borrowers who have committed to serve specific populations and who sustain a loss of services funding that affects service delivery to such populations, shall consult with OH concerning alternatives.

VIII. Project Monitoring

Borrowers must report annually on the status of their projects each year by June 30th, or on an alternative date upon reasonable advance notice. The City coordinates its monitoring, site visits and inspections with other funders to help reduce administration time and disturbance to residents. Borrowers will submit written reports on a combined funders’ annual report form.

OH ensures quality management of the City’s investment by evaluating the following: (Project-specific requirements will be included in loan documents.)

1. Sound borrower fiscal health: The project borrower and its managing member when applicable are in sound fiscal health.
2. Management Plan: The project is operated according to the agency's original or amended management plan.

3. Affordability: borrower must be in compliance with affordability requirements including tenant income determinations and rent levels.
4. Affirmative marketing and nondiscrimination: The housing is being affirmatively marketed; the population served is diverse; and the borrower can demonstrate nondiscriminatory treatment for all applicants and occupants.
5. Occupancy: The tenant family sizes must be appropriate for the unit sizes and projects designed for particular populations are appropriately serving that population with housing and, if applicable, services.
6. Unit Turnover and Vacancy: Units are turned over quickly and vacancies are minimized.
7. Physical conditions: The Property is maintained in good and tenantable condition and repair that ensures safe, secure and sanitary conditions. The property must comply with the Seattle Housing and Building Maintenance Code and Housing Quality Standards. Spaces must be used for their intended purposes (housing units, common areas, storage, accessibility etc.). The project's sustainable 'green' features are maintained and operating as designed.
8. Long-term replacement needs and capital improvements are adequately planned for and completed on schedule according to capital needs assessment (CNA) schedule of replacements. Preventive maintenance and repairs are completed according to maintenance plan and schedule.
9. Sound project fiscal management: The project is operated according to sound fiscal management practices, and all reserves, taxes, utilities and debt service including any amounts due to the City are paid on schedule and reported as required.
    a. Revenue management: The borrower collects rents in a timely manner and in a way that ensures adequate income to the property while not rent-burdening tenants; ensures compliance with contracts for operating subsidy and rental assistance.
    b. Expense management: The borrower manages expenses by re-evaluating and re-procuring goods and services from time to time.
10. Community relations: The housing project is a good neighbor, which is measured by good maintenance, street appearance, and responsiveness to neighborhood concerns and complaints.